IN THE HIGH COURT OF JUDICATURE AT BOMBAY:

NAGPUR BENCH: NAGPUR

LETTERS PATENT APPEAL NO.125 OF 2006

IN

WRIT PETITION NO.3872 OF 1998

Maharashtra State Road Transport Corporation

versus

Smt.Sumitra wd/o Purushottam Kamble and others

Mr. Charpe,Advocate for the appellant.

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CORAM: D.D. SINHA AND S. R. DONGAONKAR, JJ.

DATE: 24.8.2006

Heard Mr. Charpe, learned counsel for the petitioner. The present letters patent appeal is against order of the learned Single Judge dated 15.2.2006 whereby the writ petition filed by the Maharashtra State Road Transport Corporation, against the order of the Industrial Court dated 17.6.1998 came to be dismissed. Counsel for the petitioner has contended that in the present case though the punishment of removal imposed on the respondent was set aside by the appellate authority of the department, however, the appellate authority has imposed punishment of withholding of three increments with cumulative effect and back-wages were refused. It is contended that the Industrial Court ought not to have considered the evidence recorded during the departmental enquiry in order to find out the

adequacy of the punishment awarded by the appellate authority and therefore, the learned Single Judge was not justified in dismissing the writ petition filed by the appellant.

We have considered the contentions canvassed by the learned counsel. In the instant case the learned Single Judge on the basis of the fact that the appellate authority has set aside the order of removal, observed that misconduct of rash and negligent driving was not proved by the department. It is further observed in the impugned order that the respondent is also dead and therefore, withholding of the three increments with cumulative effect also lost its significance. In such peculiar facts and circumstances, the learned Single Judge has considered the issue and dismissed the writ petition. We want to make it clear that the decision of the learned Single Judge is a decision rendered in peculiar facts and circumstances of that case and it does not have general application and is restricted only to the facts of the said case.

For the reasons stated herein above, no case is made out for showing indulgence. Letters patent appeal is dismissed.

JUDGE JUDGE

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